

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

## INTRODUCTION

14 I conducted a hearing on alleged violations of supervised release in this case on February  
15 10, 2009. A warrant for defendant's arrest was issued but defendant appeared after self-  
16 surrendering. The United States was represented by Mark Bartlett, and defendant was  
17 represented by Robert Goldsmith. Also present was U.S. Probation Officer Jennifer Van  
18 Flandern. The proceedings were digitally recorded.

## SENTENCE AND PRIOR VIOLATIONS

20 On March 2, 2007, the Court sentenced defendant to 12 months and one day of  
21 imprisonment and three years of supervision following defendant's plea to being a felon in  
22 possession of a firearm. Defendant's term of supervision began on July 11, 2007.

23 On September 19, 2007, the probation department submitted a non-compliance report

1 indicating defendant had used methamphetamine. The Court concurred with the probation  
2 department's recommendation that no action be taken and defendant was referred to All About  
3 Choices for drug treatment. On January 11, 2008, the Court found defendant violated his  
4 conditions of supervision by using methamphetamine, failing to participate in drug treatment and  
5 failing to submit to drug testing. The Court ordered continued supervision with a special  
6 condition that defendant be subject to home confinement for 60 days.

7 PRESENTLY ALLEGED VIOLATIONS AND  
8 DEFENDANT'S ADMISSION OF VIOLATIONS 1-3

9 In a petition dated December 11, 2008, Supervising U.S. Probation Officer Joe Mendez  
10 alleged that defendant violated the following conditions of supervised release:

11 1. Using methamphetamine on or about August 11, 2008 in violation of standard condition  
12 number seven.

13 2. Using methamphetamine on or about September 15, 2008 in violation of standard  
14 condition number seven.

15 3. Using methamphetamine on or about November 17, 2008 in violation of standard  
16 condition number seven.

17 4. Failing to participate in drug treatment at All About Choices as directed by the probation  
18 officer on December 27, 2007, in violation of special conditions of supervision.

19 Defendant **denied** violations 1, 2, and 3 and an evidentiary hearing has been scheduled for  
20 February 18, 2009.

21 Defendant **admitted** violation 4 with the modification that he had failed to complete (rather  
22 than participate) treatment as alleged in violation 4. Defendant was advised of his rights he  
23 waived any hearing as to whether the violations occurred.

PROPOSED FINDINGS OF FACT AND  
DETERMINATION AS TO VIOLATIONS OF  
SUPERVISED RELEASE -2

1 At the request of the probation department, government and defense, defendant was released  
2 subject to all previous conditions of supervision ordered by the Court and on condition that he  
3 appear at his evidentiary hearing on February 18, 2009.

4 **RECOMMENDED FINDINGS AND CONCLUSIONS**

5 Based upon the foregoing, I recommend the court find that defendant has violated condition  
6 4 of his supervised release -- that he failed to complete drug treatment as directed. Following the  
7 conclusion of the evidentiary hearing set for February 18, 2009, I recommend the Court conduct a  
8 disposition hearing.

9 DATED this 10<sup>th</sup> day of February, 2009.

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12 Brian A. TSUCHIDA  
13 United States Magistrate Judge  
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